HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19704 of 1997

Date: 5th December, 2006

Between :-

Smt. V.Seethamma ..

Petitioner

And

A.P.State rep. by its
Secretary to Govt.Tribal
Welfare Department,
Secretariat buildings,
Secretariat, Hyderabad and another ..
Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.19704 of 1997

ORDER:-

The Writ Petition is filed to call for records from the respondents and issue a Writ or Order or direction by setting aside the impugned proceedings Rc.No.T/1235/97-2, dt.2-8-1997, as illegal, unjust, contrary to law, in violation of principles of natural justice and it is only an arbitrary and capricious action and pass such other suitable orders.

2. The impugned order dt.2-8-1997 reads as hereunder:-

> *"It has been brought to notice of the PO that appointment of Smt.V.Sitamma to post of SGT, GVVK, Mothugudem from Lib.Assit. in TWHS Bodigudem is irregular. Similarly her appointment to the post of Library Asst. from Cook of Social Welfare Department is irregular.*
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> *All the original files and connected records have been examined.*
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> *It is found that Smt.V.Sitamma who was originally transferred from Cook to SC Girls Hostel, Chebrolu, SW Dept and transferred to I.T.D.A. control, subsequently posted as Library Asst in TWHS, Bodigudem made a representation in the reference 3rd cited that since she had passed 10th class and belongs to*

ST community she may be promoted as SGT in the existing GVVK Schools. The then Project Officer vide proceedings No.4th read above, considered her request and appointed as SGT, GVVK, Mothugudem.

As per reference 5th read above, the Lab.Asst. vacancy should be filled by transfer from Medical Education/Health Department and SGT vacancy be filled by direct recruitment with the minimum qualification i.e., Inter and TTC after observing all recruitment procedure, since there is no channel of promotion to the post of SGT similarly Cook cannot be promoted as Lab.Asst. Therefore, the individual appointed without TTC qualification and not adopting direct recruitment procedure is held to be irregular.

Hence Smt.V.Sitamma working as SGT at GVVK, Mothugudem is hereby reverted as Cook to her original post and posted at STBH, P.R.Gudem in the existing vacancy with immediate effect, since the individual was already informed that the above appointment is purely temporary.

The Head Master, TWAS, is directed to relieve her immediately without waiting for substitute.

The Warden, STBH, P.R.Gudem is directed to admit her as and when reported for duty and report compliance."

3. It is stated by the writ petitioner that the petitioner, belongs to Schedule (Koya) Tribe, having passed 10th

class, approached the Tribal Welfare Officer, Chebrole for employment. It is also stated that the then Officer was pleased to appoint her on 25-3-1985 in a post of Cook in Govt. S.C.Girls Hostel as vacancy was readily available and the petitioner served as Cook for a period of ten years. It is further stated that meanwhile Integrated Tribal Development Agency (hereinafter referred to as 'I.T.D.A.') came into existence in the local area of the petitioner and hence, the petitioner made a representation in the year 1994 explaining her problems and Educational Qualifications to the Project Officer, I.T.D.A. requesting him to accommodate her in any existing vacancy. It is further stated that the Project Officer, I.T.D.A., W.G. District K.R.Puram was pleased to consider the representation of the petitioner, issued vide proceedings R.O.C. No.B1/158/94, dated 22-12-1994 promoting the petitioner as Library Assistant in T.W.H.School, Bodigudem. It is stated that the petitioner worked as Library Assistant in T.QW.H.School, Bodigudem from that day and also she received the promotion order dated 22-12-1994. It is also stated that the petitioner made a representation dated 22-10-1996 to the Project Officer, I.T.D.A., W.G., K.R.Puram, requesting the Officer for appointment as Teacher explaining her educational qualifications. It is further stated that the then Project Officer, I.T.D.A., W.G. District,

K.R.Puram considered her representation under the light of 1) G.O.Ms.No. 302, Edn., dated 10-7-86, and 2) G.O.Ms.No. 46, Edn., dated 7-2-94, issued vide proceedings R.O.C.t/158/94, dt.20-3-97 temporarily appointed as Single Teacher and posted at Girijan Vidya Vikasa Kendram at Mothugudem and informed that that post is purely temporary and informed that the post is liable for posting back as Library Assistant. It is also further stated that as per the proceedings dated 20-3-1997 the petitioner is working as Secondary Grade Teacher till today in the Girijan Vidya Vikasa Kendram, Mothugudem. It is also further stated that the Project Officer, I.T.D.A., W.G.District, K.R.Puram, issued impugned proceedings Rc.No.T/1235/97, dated 2-8-97 under the light of G.O.Ms.No. 40, Edn., (Ser.II) Department dt.7-2-97 reverting the petitioner as Cook i.e., to her original post and posted to S.T.B.H., P.R.Gudem, in the existing vacancy with immediate effect and directed the Warden, S.T.B.H., P.R.Gudem, to admit her as and when reported for duty and directed the Head Master, T.W.A.S., Kamavaram to relieve the petitioner immediately without waiting for substitute. It is further stated that G.O.Ms.No.40, Edn (Ser.II) Department, dt.7-2-97, has vide applicability and in the said G.O., certain guidelines

or rules were framed for selection of candidates and are applicable to Government and Panchayat Raj Institutions. It is also stated that in G.O.Ms.No. 40, Edn., (Ser.II) Department dt.7-2-97 the Girijan Vidya Vikas Schools in which the petitioner is working are not included as the said Schools does not come under the said G.O., and these Girijan Vidya Vikasa Schools are covered by G.O.Ms.No. 302, Education, dt.10-7-1986 and subsequent G.O.Ms.No. 46, Education, dt.7-2-94 which are specifically issued for the welfare of Tribals in Agency areas in Andhra Prdesh. It is further stated that as per G.O.Ms.No. 302, dt.10-7-1986 the qualification for the appointment of Teachers of the local Tribals are Pass or Fail in 10th class and the local Tribals shall alone be appointed as Teachers on regular Scale. It is also stated that in the said G.O., it was specifically mentioned that for the training of these Teachers, one Teacher Training Centre at Marlyavai in Adilabad District is being started separately and another Training Centre shall be immediately established at Araku of Visakhapatnam District and it shall be known as 'Telugu Girijana Upadhyaya Sikshana Kendram' and the Teachers that will be appointed for the Primary Schools shall be given training in these two Training Centres in Batches. It is also further stated that

the Government issued G.O.Ms.No. 46, dt.7-2-1994 amending the G.O.Ms.No. 302, dt.10-7-86 as reported by the Commissioner Tribal Welfare that 3,600 Scheduled Tribe candidates have been passed 10th class examination in Scheduled Areas during the year 1991-92 and it is felt that the qualification prescribed for Scheduled Tribes for appointment of Teacher posts may be revised to 10th class pass as sufficient number of such candidates available in all I.T.D.A.s, amended regarding qualification to Teacher posts as 10th class pass and redesignated the Primary Schools in School-less Tribal Villages as “Girijana Vidya Vikasa Kendras”. It is further stated that the petitioner was appointed as Teacher under the reference of G.O.Ms.No. 302, Edn., dt.10-7-86 and G.O.Ms.No. 46, Edn., dt.7-2-94 by the Project Officer, I.T.D.A., West Godavari District, K.R.Puram, by vide proceedings R.O.C.No.t/158/94, dt.20-3-97 in Girijana Vidya Vikasa Kendram, Mothugudem which was valid, legal and in accordance with the said G.Os., which were specifically issued for the Welfare of Tribals in Agency Areas. It is further stated that contrary to G.O.Ms.No.302, Edn, dt.10-7-86 and G.O.Ms.No. 46, Edn., dt.7-2-94 and contrary to proceedings R.O.C.No.%/158/94, dt.20-3-97 the Project Officer, I.T.D.A. issued the impugned

proceedings Rc.No.Tp1235/97-2, dt.2-8-97, reverting the petitioner as Cook which is irregular, illegal, contrary to Law, contrary to G.O.Ms.No. 302, dt.10-7-86 and G.O.Ms.No. 46, Edn., dt.7-2-94 and liable to be set aside. In such circumstances, the writ petitioner approached this Court.

4. It is stated that by virtue of an interim order, the petitioner is continuing as Teacher. An application to vacate the interim order was filed by the 2nd respondent and in the counter affidavit filed by the 2nd respondent several allegations were denied. It was stated in para 2 of the counter affidavit that the individual was originally appointed as Cook in Social Welfare Department and at her request, transferred to Tribal Welfare Institutions under the control of Integrated Tribal Welfare Development Agency. It is also stated that she is a Class IV employee and belongs to ST community and passed Experience Class and she was promoted as Library Assistant vide Office proceedings No.B1/158/94, dt.12-12-1994. It is further stated that while working as Library Assistant, the petitioner had made a representation to the then Project Officer for promotion as S.G.T. in any one of the G.V.V.K. and subsequently, the petitioner was appointed as S.G.T., even though there is no channel for appointment from the

post of Library Assistant to S.G.T., and just possessing the minimum qualification of 10th class pass, the petitioner can'the claim for the posting of S.G.T. from the category of Record Assistant. It is further stated that G.O.Ms.No. 302, Education Department, dt.10-7-86 and G.O.Ms.No. 46, Education Department dt.7-2-94 clearly speak of Direct Recruitment for the post of S.G.T., and there is no channel of appointment from any Class or Cadre. It is also further stated in para 3 of the counter affidavit that in order to provide additional measures in the field of education and with a view to raise considerably the literacy percentage of the Scheduled Tribes, the Government had issued G.O.Ms.No. 302 Education, dt.10-7-86 and accordingly, Primary Schools were opened in School-less habitations to be filled by local Tribes with 10th class pass or fail on regular Scale. It is also stated that it is thus clearly understood that neither there is any provision of promotional channel nor appointment by transfer from any class or cadre, except for direct recruitment. It is also stated that the petitioner had not resigned the post of Library Assistant for making herself eligible for Direct Recruitment for S.G.Ts. It is also further stated in para 4 of the counter affidavit that the training of Teachers on regular scale which was specially mentioned in the said

G.O., at “Marlvai” in Adilabad District is meant only for those Teachers who were appointed directly to the S.G.T. posts during the year 1986 only and for the subsequent batches, the training is being held at DIET, Dubacharla. It is also stated that the petitioner is forgetting that her transfer as SGT from the Category of Library Assistant does not hold good and hence she cannot contend for Training. Further it was stated in para 5 of the counter affidavit that G.O.Ms.No. 46 Education Department, dt.7-2-94 is only an amendment for G.O.Ms.No. 302, Education, dt.10-7-86. It is stated that the said amendment is only “10th Class pass” and nomenclature is “Girijan Vidya Vikas Kendrams”. It is also stated that there is again no mention of any promotion/transfer from any class or cadre except for direct recruitment. Further specific stand is taken that the petitioner had specified certain G.Os., but nowhere it was mentioned that how she was promoted on the strength of the said G.Os. It is further stated in para 7 of the counter affidavit that the petitioner was appointed as Teacher from the category of Library Assistant under the reference of G.O.Ms.No. 302, Education Department, dt.10-7-86 and G.O.Ms.No. 46, Education Department dt.7-2-94 which is quite contrary to the spirit contrained in the said G.O.s., and the said G.O.s., were issued only to

better the living conditions of STs and to improve the Scheduled Areas especially school-less habitations and it does not mean to encourage irregular promotions to deprive the rights of eligible Scheduled Tribes. Further specific stand is taken in para 8 of the counter affidavit that there is no provision for in-service candidates for promotion of S.G.T. from the category of Library Assistant, as the job charts of the two categories are quite contrary in nature and can't compete with each other and the petitioner is just harping on G.Os., issued by the Government to bring Welfare of Tribvals and has not stated as to how she is eligible for promotion or appointment as Teacher and gross injustice has been done to X pass Tribals by not giving them an opportunity for employment. It is also stated that while it is not desired that the petitioner is 10th pass but only being 10th pass does not qualify a person for appointment without a proper chance being given to all of the eligible candidates. It is further stated that principles of natural justice have not been followed and innocent eligible people suffered because the appointment without notification.

5. In the light of the respective stands taken by the contesting parties and also in the light of the impugned order referred to supra, inasmuch as, the petitioner was

appointed temporarily, as such, the petitioner cannot claim any right to be promoted as Teacher. In the light of the specific stand taken by the 2nd respondent in the counter affidavit, this Court is of the considered opinion that the stand taken by the writ petitioner cannot be accepted and hence the impugned order as such cannot be found fault.

6. The Writ Petition accordingly shall stand dismissed. No order as to costs.

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Justice P.S.Narayana

5th December, 2006
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